

REMARKS

The Official Action of March 17, 2005 has been carefully reviewed. The claims in the application are now only allowed claims 1 and 2, whereby the present application should be in condition for formal allowance, consistent with what is stated in the Official Action. Accordingly, the applicants respectfully request favorable consideration and early formal allowance.

The Office Action Summary states that applicants' priority document has not been received. Applicant filed a certified copy of the priority document on March 21, 2005. **Acknowledgement of the receipt of applicants' papers filed under §119 is respectfully requested.**

The paragraph regarding applicants' Information Disclosure Statement, appearing at the top of page 2 of the Office Action, indicates that reference AC has not been considered because there is no associated explanation. Applicants respectfully traverse this holding and request consideration of such document, along with evidence that it has indeed been considered by the examiner.

In this regard, the Information Disclosure Statement (IDS) filed in the parent application on December 18, 2002, stated as follows regarding citation AC:

3. Document AC is not in the English language. In accordance with §1.98(a)(3), Applicant(s) states:

[X] A concise explanation of the relevance of document AC is found in the attached European search report (see reply to Comment 68 in the preamble to the final rules; 1135 OG 13 at 20). [emphasis added]

Thus, comment 68 in the preamble to the final rules expressly states that it is a **sufficient concise explanation** to provide a foreign search report in which the foreign language document has been categorized. Applicants indeed filed a copy of the European search report with the IDS in the parent case, and thus fully complied with the regulations. For the examiner's convenience, a duplicate copy of this European Search Report (as filed with the IDS in the parent application) is attached hereto.

Applicants **again** request the PTO to give consideration to the document in question, i.e. document AC, and then to provide applicants with an examiner initialed copy of the form showing consideration of document AC.

Claim 4 has been rejected under the second paragraph of §112. While applicants do not agree with the rejection, claim 4 has nevertheless been deleted because it is unnecessary. Use of the device of claim 1 would constitute an infringement thereof, and that would in any event encompass the method of claim 4. Accordingly, the deletion of claim 4

is made without dedication, disclaimer, abandonment, waiver, forfeiture, renunciation, concession or surrender of any kind.

Claim 3 has been rejected on the basis of alleged double patenting, it being the examiner's position that claim 3 is a substantial duplicate of claim 2. While applicants do not agree, for reasons only briefly noted below, claim 3 is unnecessary as its subject matter is entirely encompassed by claims 2 and 1. The deletion of claim 3 is therefore made without dedication, disclaimer, abandonment, waiver, forfeiture, renunciation, concession or surrender of any kind.

For the record, it is noted that range of "of at least 1.2-times" is greater than the range of "1.5-3 times", so that claim 3 is narrower than claim 2. They are clearly not substantial duplicates. The fact that the range of claim 2 encompasses the range of claim 3, as the examiner readily admits, does not support the rejection. Any generic claim encompasses all the claims which depend therefrom; if the reasoning provided as a basis for the rejection were correct, then no dependent claim would be permitted under U.S. practice, as all broad claims always encompass the subject matter of any claim which depends therefrom.

Claims 1 and 2, the only remaining claims, have been allowed. Applicants again note that no rejections of any

Appln. No. 10/654,660
Amd. dated June 17, 2005
Reply to Office Action of March 17, 2005

applicants' claims 1-4 have been made on the basis of any prior art, i.e. the PTO agrees that applicants' claims 1-4 define novel and unobvious subject matter under §§102 and 103.

In this regard, applicants note that the prior art of record, including the reference cited by the examiner, are not deemed sufficiently pertinent by the PTO to warrant their application against any of applicants' claims.

Applicants believe that all issues raised in the Official Action have been addressed above in a manner favorable to patentability of the present application. Applicants accordingly respectfully request favorable consideration and early formal allowance.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant(s)

By



Sheridan Neimark
Registration No. 20,520

SN:jaa
Telephone No.: (202) 628-5197
Facsimile No.: (202) 737-3528
G:\BN\S\SUMA\masaki69a\pto\Amd 17je05.doc